

Leader

Human rights at stake in the Circumpolar Regions

Respect for human rights is among the most basic requirements individuals and groups can demand of the authorities of their countries. Such rights therefore enjoy constitutional and legal protection in most countries with a democratic form of government, while the international community has entered into binding agreements to ensure that these rights are upheld. These agreements apply to the protection of human rights in general, and specifically those affecting the welfare of vulnerable groups such as children, women, and minorities.

Numbering within these vulnerable groups are indigenous peoples. Their rights to the enjoyment of their cultures, lands, or languages, have been under continuing pressure from a time long past, when the non-indigenous population appropriated their lands and suppressed their culture. This has been the situation in Scandinavia, America, Russia, Australia, and the Far East.

Entering into the 21st century, there have been significant positive changes in these areas. Indigenous people are now invited to participate in bodies that have influence on the governance of the High North such as the *Arctic Council*, and it is no longer politically acceptable not to consult indigenous people when plans, projects and legislation affecting them are adopted. The 1993 Nunavut Land Claims Agreement in Canada, the 2005 Finnmark Act in Norway as well as the increased participation the indigenous peoples of the Yamal Region in Russia in management of the area's rich natural resources, are also to be mentioned as positive developments.

However, the Sami Council's human rights expert *Mattias Åhrén* has observed that the Norwegian eagerness to establish mining activities in core Sámi reindeer-herding areas could be in contradiction with human rights as internationally recognized. The same holds for the failure to recognize the historical rights of the Coastal Sámi to fish in the coastal waters, as was an issue in the Report on the

situation of the Sami people in the Sápmi region of Norway, Sweden and Finland by the UN Special Rapporteur on the rights of indigenous peoples, *James Anaya*. The UN Special Rapporteur has recently also published a report on the situation of indigenous peoples in the United States of America, showing that even so powerful a country as the USA, which stands up for democracy and human rights abroad, has a way to go before such rights are safeguarded sufficiently in the heart of its own homeland.

A deficient human rights situation in the USA has been cited also by the Russian Foreign Ministry in the fall of 2012. In a 56-page report on the human rights situation in the United States, the Ministry reports that the life of Native Americans remains comparatively uncomfortable, in that approximately 46 per cent of them do not have their own housing, and one in five lives in a house without running water, electricity, or sewage system.¹ There are also a disproportionately high number of Native Americans suffering from alcoholism, heart disease, tuberculosis, and diabetes, while almost 30 per cent lack health insurance.

Without taking a position on the Russian report in general, there is no reason for doubting the indigenous issues addressed, since it is well known that indigenous peoples' standard of living in the USA is far behind that of the average U.S. citizen. At the same time, Russia has its own concerns to solve, on which it might well focus, rather than drawing attention to ills in the USA. Without even considering the impact of companies extracting oil and gas from indigenous pastoral lands, or the deficient standard of living of the indigenous settlements in the North, one may mention some more general violations. One such is the case of the Pomor author and activist *Ivan Moseyev*, who for a long time has argued for recognition of the Pomors as an indigenous people inside Russia, and who has in consequence been accused of separatism and espionage, conviction for which could carry a sentence of up to 20 years. It is debatable whether Pomors are an indigenous people, but merely raising the question can hardly be a legitimate criminal offense. Equally serious are the accusations against the Russian Association of Indigenous Peoples of the North (RAIPON), which may threaten to close down an organization that has for 20 years been a vital voice for indigenous people in the Russian High North, Siberia, and Far East.

Even the situation of the indigenous peoples of Canada, which has been recognized as a pioneer in respect for indigenous issues, is challenging. The

1. Ministry of Foreign Affairs of the Russian Federation, Report on the Human Rights Situation in The United States of America, at: <http://www.mid.ru/bdcomp/ns-dgpch.nsf/8f29680344080938432569ea00361529/2ab49ff642baf0c244257aa000254663!OpenDocument> (accessed January, 10, 2012).

Saskatchewan-based movement *Idle No More* has for several months received unexpectedly strong support all over North America, revealing that Canada has its difficulties in living up to this recognition. Yet this nationwide and peaceful indigenous movement, and the hunger strike of *Chief Theresa Spence*, so far seem to have little visible influence on the Harper-administration in Ottawa.

Abuse, neglect, and lack of hands-on remediation of situations as unacceptable as the above, render it not only scientifically, but socially important to publish thorough analyses of indigenous issues and other questions bearing on human rights. We are therefore pleased to present several contributions that focus on human rights and related topics in this issue of *Arctic Review on Law and Politics*:

Ruslan Garipov devotes attention to the extraction of resources on the territories of Indigenous minorities in The Russian North, analysing several issues concerning international and domestic legal regulations relative to the expanding gas and oil industry.

Magne Frostad analyses the extent and relationship of two provisions bearing on the geographical scope of the European Convention on Human Rights: Articles 1 and 56. Both provisions are of relevance to, *inter alia*, territories held by Norway in the South Atlantic and on the Antarctic continent.

Eivind Torp examines the legal basis of the Sámi reindeer-herding rights in Sweden. The legal basis is of special interest for the protection of pastures, and so for a substantial basis of the Sámi culture, which enjoys protection under international human rights obligations.

Together with these three papers, we present two contributions equally well suited to the publishing policy of this journal:

Eva Josefsen and *Eli Skogerbo* analyse the media-coverage of the 2009 Sámi Parliamentary election campaign in Norway. The authors point out geographical disparities in the news-coverage and note the occurrence of a higher level of conflict and controversy over Sámi politics in Finnmark than in other parts of Norway.

Jan Solski analyses the processes leading up to the long-awaited adoption of Russian Northern Sea-Route legislation, as well as the implications of the new legislation for Arctic navigation. His article also traces the development of Russian legal thinking with respect to the allocation of jurisdiction in the Northern Sea-Route.

In addition to the above five peer-reviewed articles, we include three fact-oriented debate articles that complement and help highlight the issues raised concerning indigenous and human rights in Russia, Norway, and Canada, respectively.

Good reading.

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